IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.M. No.28693-M of 2006

Date of Decision: 23.4.2007

Neelam Rani

....Petitioner.

Versus

State of Haryana and others.

...Respondents.

Present:- Mr.Krishan Singh,Advocate
for the petitioner.

Mr.Narinder Sura, AAG Haryana.
Mr. Balkar Singh, Advocate for respondents No.2 to 4.

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S.S.SARON, J.(ORAL)

This petition has been filed under Section 439(2) Cr.P.C. for cancellation of anticipatory bail granted to respondents No.2 to 4 vide order dated 22.3.2006 (Annexure P2) passed by the learned Additional Sessions Judge, Yamunanagar.

The marriage between the petitioner and Lal Chand was solemnised on 6.3.2003. On account of a dispute having arisen in the matrimonial relationship, the petitioner filed a complaint before the learned Additional Chief Judicial Magistrate, Yamunanagar, which was sent to SHO PS Sadhaura, for registration of case in terms of Section 156 (3) Cr.P.C. FIR (Annexure-P1) was registered on 11.3.2006 for the offences under Sections 498-A, 406, 323, 506, 120-B IPC. Respondents No.2 to 4 were granted anticipatory bail vide order dated 22.3.2006 (Annexure P-2) the cancellation of which is sought.

Learned counsel for the petitioner has sought cancellation of the bail granted to respondents No.2 to 4 on the ground that on 22.3.2006 when the petitioner was coming from the Court she was caught hold of by respondents No.2 and 4 and threatened that either she withdraws the case or she, her father and children will be eliminated. When she reached at the Bus stand to go home she was again caught by the respondents who tried to beat her. This occurrence was reported by way of a complaint (Annexure P-3) to the DSP Yamunanagar. In view of the threat held out by respondents No.2 to 4, the pre-arrest bail granted to respondents No.2 to 4 it is prayed be cancelled.

In the reply filed by the respondents it is stated that an inquiry was conducted in respect of the occurrence of 22.3.2006. Statements of Karam Chand son of Garib Dass, a coolie at the Bus Stand Jagadhri, EHC Ram Sarup No.777 whose duty was at the Bus Stand, Jagadhari and one Rajesh Kumar Sarpanch, who was present in the Court were recorded. According to their statements no incident as alleged by the petitioner occurred on 22.3.2006. The inquiry officer in his report submitted to the SHO P.S. City Jagadhari, held the allegations of the petitioner to be false and her only intention was to make out a ground for cancellation of bail.

After giving my thoughtful consideration to the matter, it is appropriate to note that rejection of bail is on one footing but cancellation is a harsh order as it takes away the liberty of the person who has been extended the concession of bail. Therefore, the order for cancellation of bail is not to be lightly resorted to. It is only when an accused to whom bail has been granted tries to interfere with due course of justice or attempts to

tamper with the evidence or win over the witnesses or indulges in similar activities which would hamper the smooth investigation or the trial of the case that bail is to be cancelled. The allegations with regard to the alleged incident have been found to be not correct by the police in its inquiry that was conducted after recording the statements of Karam Chand son of Garib Dass, who was a coolie at the Bus Stand Jagadhari, EHC Ram Sarup No.777 who was on duty at the Bus Stand, besides the statement of Rajesh Kumar, Sarpanch who was present in the Court on 22.3.2006. Therefore, in the afore noticed circumstances, no ground for cancellation of bail has been made out.

Learned counsel for the petitioner has further contended that though notice in the present case was issued only on the plea that while coming from the Court on 22.3.2006, respondents No.2 and 4 had threatened her, however, it is submitted that the dowry articles for which the FIR was lodged have not yet been recovered. In this regard it is for the police authority to pursue its case in accordance with law and get the recovery of the articles effected. That in any case cannot be a ground for cancellation of pre-arrest bail granted to respondents No.2 to 4, vide order dated 22.3.2006 (Annexure P-2) passed by the learned Addl. Sessions Judge, Yamunanagar.

In the afore noticed circumstances, there is no merit in this petition and the same is accordingly dismissed.

(S.S.SARON)
JUDGE

April 23,2007
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